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Attorneys for Defendants,

**UNITED STATES DISTRICT COURT**

**CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

FRANK LOPEZ, individually and as  
successor-in-interest to Estate of  
HELEN LUCERO (Deceased) and  
CECILIA LOPEZ (Deceased); ALMA  
MARIE LOPEZ, individually and as  
successor-in-interest of Estate of  
CECEILIA LOPEZ, Deceased,

Plaintiffs,

v.

OFFICER JAY CHOI, an individual;  
OFFICER SAMUEL RIVEROS, and  
Individual; OFFICER SUNNY KIM, an  
INDIVIDUAL; CITY OF BALDWIN  
PARK POLICE DEPARTMENT,  
CITY OF BALDWIN PARK, and  
DOES 1-25, Inclusive,

Defendants.

Case No. 2:23-cv-00802-SK  
Magistrate Judge, Charles F. Eick

**STIPULATED PROTECTIVE  
ORDER**

Filed Date: 02/02/23  
FAC Date: 05/18/23  
Trial Date: 10/08/24

**1. A. PURPOSES AND LIMITATIONS**

Discovery in this action is likely to involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may

1 be warranted. Accordingly, the parties hereby stipulate to and petition the Court to  
2 enter the following Stipulated Protective Order. The parties acknowledge that this  
3 Order does not confer blanket protections on all disclosures or responses to  
4 discovery and that the protection it affords from public disclosure and use extends  
5 only to the limited information or items that are entitled to confidential treatment  
6 under the applicable legal principles. The parties further acknowledge, as set forth  
7 in Section 12.3 (Filing Protected Material), below, that this Stipulated Protective  
8 Order does not entitle them to a file confidential information under seal; Civil Local  
9 Rule 79-5 sets forth the procedures that must be followed and the standards that will  
10 be applied when a party seeks permission from the court to file material under seal.

11  
12 **B. GOOD CAUSE STATEMENT**

13 Defendants contend that there is good cause and a particularized need for a  
14 protective order to preserve the interests of confidentiality and privacy in peace  
15 officer personnel file records and associated investigative or confidential records for  
16 the following reasons.

17 First, Defendants contend that peace officers have a federal privilege of  
18 privacy in their personnel file records: a reasonable expectation of privacy therein  
19 that is underscored, specified, and arguably heightened by the *Pitchess* protective  
20 procedure of California law. *See Sanchez v. Santa Ana Police Dept.*, 936 F.2d 1027,  
21 1033-1034 (9th Cir. 1990); *Hallon v. City of Stockton*, 2012 U.S. Dist. LEXIS  
22 14665, \*2-3, 12-13 (E.D. Cal. 2012) (concluding that “while “[f]ederal law applies  
23 to privilege based discovery disputes involving federal claims,” the “state privilege  
24 law which is consistent with its federal equivalent significantly assists in applying  
25 [federal] privilege law to discovery disputes”); *Soto v. City of Concord*, 162 F.R.D.  
26 603, 613 n. 4, 616 (N.D. Cal. 1995) (peace officers have constitutionally-based  
27 “privacy rights [that] are not inconsequential” in their police personnel records); *cf.*  
28 Cal. Penal Code §§ 832.7, 832.8; Cal. Evid. Code §§ 1040-1047. Defendants

1 further contend that uncontrolled disclosure of such personnel file information can  
2 threaten the safety of non-party witnesses, officers, and their families/associates.

3           Second, Defendants contend that municipalities and law enforcement  
4 agencies have federal deliberative-executive process privilege, federal official  
5 information privilege, federal law enforcement privilege, and federal attorney-client  
6 privilege (and/or attorney work product protection) interests in the personnel files of  
7 their peace officers – particularly as to those portions of peace officer personnel files  
8 that contain critical self-analysis, internal deliberation/decision-making or  
9 evaluation/analysis, or communications for the purposes of obtaining or rendering  
10 legal advice or analysis – potentially including but not limited to  
11 evaluative/analytical portions of Internal Affairs type records or reports,  
12 evaluative/analytical portions of supervisory records or reports, and/or reports  
13 prepared at the direction of counsel, or for the purpose of obtaining or rendering  
14 legal advice. *See Sanchez*, 936 F.2d at 1033-1034; *Maricopa Audubon Soc’y v.*  
15 *United States Forest Serv.*, 108 F.3d 1089, 1092-1095 (9th Cir. 1997); *Soto*, 162  
16 F.R.D. at 613, 613 n. 4; *Kelly v. City of San Jose*, 114 F.R.D. 654, 668-671 (N.D.  
17 Cal. 1987); *Tuite v. Henry*, 181 F.R.D. 175, 176-177 (D. D.C. 1998); *Hamstreet v.*  
18 *Duncan*, 2007 U.S. Dist. LEXIS 89702 (D. Or. 2007); *Admiral Ins. Co. v. United*  
19 *States Dist. Ct.*, 881 F.2d 1486, 1492, 1495 (9th Cir. 1988). Defendants further  
20 contend that such personnel file records are restricted from disclosure by the public  
21 entity’s custodian of records pursuant to applicable California law and that  
22 uncontrolled release is likely to result in needless intrusion of officer privacy;  
23 impairment in the collection of third-party witness information and statements and  
24 related legitimate law enforcement investigations/interests; and a chilling of open  
25 and honest discussion regarding and/or investigation into alleged misconduct that  
26 can erode a public entity’s ability to identify and/or implement any remedial  
27 measures that may be required.

28           Third, Defendants contend that, since peace officers do not have the

1 same rights as other private citizens to avoid giving compelled statements, it is  
2 contrary to the fundamental principles of fairness to permit uncontrolled release of  
3 officers' compelled statements. *See generally Lybarger v. City of Los Angeles*, 40  
4 Cal.3d 822, 828-830 (1985); *cf.* U.S. Const., amend V.

5 Accordingly, Defendants contend that, without a protective order  
6 preventing such, production of confidential records in the case can and will likely  
7 substantially impair and harm defendant public entity's interests in candid self-  
8 critical analysis, frank internal deliberations, obtaining candid information from  
9 witnesses, preserving the safety of witnesses, preserving the safety of peace officers  
10 and peace officers' families and associates, protecting the privacy officers of peace  
11 officers, and preventing pending investigations from being detrimentally  
12 undermined by publication of private, sensitive, or confidential information – as can  
13 and often does result in litigation.

14 Plaintiff agrees that there is Good Cause for a Protective Order so as to  
15 preserve the respective interests of the parties without the need to further burden the  
16 Court with such issues. Specifically, the parties jointly contend that, absent this  
17 Stipulation and its associated Protective Order, the parties' respective privilege  
18 interests may be impaired or harmed, and that this Stipulation and its associated  
19 Protective Order may avoid such harm by permitting the parties to facilitate  
20 discovery with reduced risk that privileged and/or sensitive/confidential information  
21 will become matters of public record.

## 22 23 2. DEFINITIONS

24 2.1 Action: *Frank Lopez et. al v. City of Baldwin Park et. al.* (Case No.  
25 CV, 23-0802 FMO (Ex))

26 2.2 Challenging Party: a Party or Non-Party that challenges the  
27 designation of information or items under this Order.

28 2.3 "CONFIDENTIAL" Information or Items: information (regardless of

1 how it is generated, stored, or maintained) or tangible things that qualify for  
2 protection under Federal Rule of Civil Procedure 26(c), and as specified above in  
3 the Good Cause Statement.

4 2.4 Counsel: Outside Counsel of Record and House Counsel (as well as  
5 their support staff).

6 2.5 Designating Party: a Party or Non-Party that designates information  
7 or items that it produces in disclosures or in responses to discovery as  
8 “CONFIDENTIAL.”

9 2.6 Disclosure or Discovery Material: all items or information, regardless  
10 of the medium or manner in which it is generated, stored, or maintained (including,  
11 among other things, testimony, transcripts, and tangible things), that are produced  
12 or generated in disclosures or responses to discovery in this matter.

13 2.7 Expert: a person with specialized knowledge or experience in a matter  
14 pertinent to the litigation who has been retained by a Party or its counsel to serve as  
15 an expert witness or as a consultant in this Action.

16 2.8 House Counsel: attorneys who are employees of a party to this Action.  
17 House Counsel does not include Outside Counsel of Record or any other outside  
18 counsel.

19 2.9 Non-Party: any natural person, partnership, corporation, association,  
20 or other legal entity not named as a Party to this action.

21 2.10 Outside Counsel of Record: attorneys who are not employees of a  
22 party to this Action but are retained to represent or advise a party to this Action and  
23 have appeared in this Action on behalf of that party or are affiliated with a law firm  
24 which has appeared on behalf of that party, including support staff.

25 2.11 Party: any party to this Action, including all of its officers, directors,  
26 employees, consultants, retained experts, and Outside Counsel of Record (and their  
27 support staffs).

28 2.12 Producing Party: a Party or Non-Party that produces Disclosure or

Discovery Material in this Action.

2.13 Professional Vendors: persons or entities that provide litigation support services (e.g., photocopying, videotaping, translating, preparing exhibits or demonstrations, and organizing, storing, or retrieving data in any form or medium) and their employees and subcontractors.

2.14 Protected Material: any Disclosure or Discovery Material that is designated as “CONFIDENTIAL.”

2.15 Receiving Party: a Party that receives Disclosure or Discovery Material from a Producing Party.

### 3. SCOPE

The protections conferred by this Stipulation and Order cover not only Protected Material (as defined above), but also (1) any information copied or extracted from Protected Material; (2) all copies, excerpts, summaries, or compilations of Protected Material; and (3) any testimony, conversations, or presentations by Parties or their Counsel that might reveal Protected Material.

Any use of Protected Material at trial shall be governed by the orders of the trial judge. This Order does not govern the use of Protected Material at trial.

### 4. DURATION

Even after final disposition of this litigation, the confidentiality obligations imposed by this Order shall remain in effect until a Designating Party agrees otherwise in writing or a court order otherwise directs. Final disposition shall be deemed to be the later of (1) dismissal of all claims and defenses in this Action, with or without prejudice; and (2) final judgment herein after the completion and exhaustion of all appeals, rehearings, remands, trials, or reviews of this Action, including the time limits for filing any motions or applications for extension of time

pursuant to applicable law.

## 5. DESIGNATING PROTECTED MATERIAL

### 5.1 Exercise of Restraint and Care in Designating Material for Protection.

Each Party or Non-Party that designates information or items for protection under this Order must take care to limit any such designation to specific material that qualifies under the appropriate standards. The Designating Party must designate for protection only those parts of material, documents, items, or oral or written communications that qualify so that other portions of the material, documents, items, or communications for which protection is not warranted are not swept unjustifiably within the ambit of this Order.

Mass, indiscriminate, or routinized designations are prohibited. Designations that are shown to be clearly unjustified or that have been made for an improper purpose (e.g., to unnecessarily encumber the case development process or to impose unnecessary expenses and burdens on other parties) may expose the Designating Party to sanctions.

If it comes to a Designating Party's attention that information or items that it designated for protection do not qualify for protection, that Designating Party must promptly notify all other Parties that it is withdrawing the inapplicable designation.

5.2 Manner and Timing of Designations. Except as otherwise provided in this Order (see, e.g., second paragraph of Section 5.2(a) below), or as otherwise stipulated or ordered, Disclosure or Discovery Material that qualifies for protection under this Order must be clearly so designated before the material is disclosed or produced.

Designation in conformity with this Order requires:

(a) for information in documentary form (e.g., paper or electronic documents, but excluding transcripts of depositions or other pretrial or trial



proceedings), that the Producing Party affix at a minimum, the legend “CONFIDENTIAL” (hereinafter “CONFIDENTIAL legend”), to each page that contains protected material. If only a portion or portions of the material on a page qualifies for protection, the Producing Party also must clearly identify the protected portion(s) (e.g., by making appropriate markings in the margins).

A Party or Non-Party that makes original documents available for inspection need not designate them for protection until after the inspecting Party has indicated which documents it would like copied and produced. During the inspection and before the designation, all of the material made available for inspection shall be deemed “CONFIDENTIAL.” After the inspecting Party has identified the documents it wants copied and produced, the Producing Party must determine which documents, or portions thereof, qualify for protection under this Order. Then, before producing the specified documents, the Producing Party must affix the “CONFIDENTIAL legend” to each page that contains Protected Material. If only a portion or portions of the material on a page qualifies for protection, the Producing Party also must clearly identify the protected portion(s) (e.g., by making appropriate markings in the margins).

(b) for testimony given in depositions that the Designating Party identify the Disclosure or Discovery Material on the record, before the close of the deposition all protected testimony.

(c) for information produced in some form other than documentary and for any other tangible items, that the Producing Party affix in a prominent place on the exterior of the container or containers in which the information is stored the legend “CONFIDENTIAL.” If only a portion or portions of the information warrants protection, the Producing Party, to the extent practicable, shall identify the protected portion(s).

5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to designate qualified information or items does not, standing alone, waive



1 the Designating Party's right to secure protection under this Order for such material.  
2 Upon timely correction of a designation, the Receiving Party must make reasonable  
3 efforts to assure that the material is treated in accordance with the provisions of this  
4 Order.

5  
6 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

7 **6.1 Timing of Challenges.** Any Party or Non-Party may challenge a  
8 designation of confidentiality at any time that is consistent with the Court's  
9 Scheduling Order.

10 **6.2 Meet and Confer.** The Challenging Party Shall initiate the dispute  
11 resolution process under Civil Local Rule 37-1 et seq.

12 **6.3** The burden of persuasion in any such challenge proceeding shall be  
13 on the Designating Party. Frivolous challenges, and those made for an improper  
14 purpose (e.g., to harass or impose unnecessary expenses and burdens on other  
15 parties), may expose the Challenging Party to sanctions. Unless the Designating  
16 Party has waived or withdrawn the confidentiality designation, all parties shall  
17 continue to afford the material in question the level of protection to which it  
18 is entitled under the Producing Party's designation until the Court rules on the  
19 challenge.

20  
21 **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

22 **7.1 Basic Principles.** A Receiving Party may use Protected Material that  
23 is disclosed or produced by another Party or by a Non-Party in connection with  
24 this Action only for prosecuting, defending, or attempting to settle this Action.  
25 Such Protected Material may be disclosed only to the categories of persons and  
26 under the conditions described in this Order. When the Action has been  
27 terminated, a Receiving Party must comply with the provisions of Section 13 below  
28 (FINAL DISPOSITION).

1 Protected Material must be stored and maintained by a Receiving Party at  
2 a location and in a secure manner that ensures that access is limited to the  
3 persons authorized under this Order.

4 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless  
5 otherwise ordered by the Court or permitted in writing by the Designating Party, a  
6 Receiving Party may disclose any information or item designated  
7 “CONFIDENTIAL” only to:

8 (a) the Receiving Party’s Outside Counsel of Record in this Action, as  
9 well as employees of said Outside Counsel of Record to whom it is reasonably  
10 necessary to disclose the information for this Action;

11 (b) the officers, directors, and employees (including House Counsel) of  
12 the Receiving Party to whom disclosure is reasonably necessary for this Action;

13 (c) Experts (as defined in this Order) of the Receiving Party to whom  
14 disclosure is reasonably necessary for this Action and who have signed the  
15 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

16 (d) the Court and its personnel;

17 (e) court reporters and their staff;

18 (f) professional jury or trial consultants, mock jurors, and Professional  
19 Vendors to whom disclosure is reasonably necessary for this Action and who have  
20 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

21 (g) the author or recipient of a document containing the information or a  
22 custodian or other person who otherwise possessed or knew the information;

23 (h) during their depositions, witnesses, and attorneys for witnesses, in  
24 the Action to whom disclosure is reasonably necessary provided: (1) the deposing  
25 party requests that the witness sign the form attached as Exhibit A hereto; and (2)  
26 they will not be permitted to keep any confidential information unless they sign the  
27 “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise  
28 agreed by the Designating Party or ordered by the Court. Pages of transcribed

1 deposition testimony or exhibits to depositions that reveal Protected Material may  
2 be separately bound by the court reporter and may not be disclosed to anyone except  
3 as permitted under this Stipulated Protective Order; and

4 (i) any mediator or settlement officer, and their supporting personnel,  
5 mutually agreed upon by any of the parties engaged in settlement discussions.

6 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED  
7 IN OTHER LITIGATION

8 If a Party is served with a subpoena or a court order issued in other litigation  
9 that compels disclosure of any information or items designated in this Action as  
10 “CONFIDENTIAL,” that Party must:

11 (a) promptly notify in writing the Designating Party. Such notification  
12 shall include a copy of the subpoena or court order;

13 (b) promptly notify in writing the party who caused the subpoena or order  
14 to issue in the other litigation that some or all of the material covered by the  
15 subpoena or order is subject to this Protective Order. Such notification shall include  
16 a copy of this Stipulated Protective Order; and

17 (c) cooperate with respect to all reasonable procedures sought to be  
18 pursued by the Designating Party whose Protected Material may be affected.

19 If the Designating Party timely seeks a protective order, the Party served with  
20 the subpoena or court order shall not produce any information designated in this  
21 action as “CONFIDENTIAL” before a determination by the court from which the  
22 subpoena or order issued, unless the Party has obtained the Designating Party’s  
23 permission. The Designating Party shall bear the burden and expense of seeking  
24 protection in that court of its confidential material, and nothing in these provisions  
25 should be construed as authorizing or encouraging a Receiving Party in this Action  
26 to disobey a lawful directive from another court.

27 9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE  
28 PRODUCED IN THIS LITIGATION

(a) The terms of this Order are applicable to information produced by a Non-Party in this Action and designated as “CONFIDENTIAL.” Such information produced by Non-Parties in connection with this litigation is protected by the remedies and relief provided by this Order. Nothing in these provisions should be construed as prohibiting a Non-Party from seeking additional protections.

(b) In the event that a Party is required, by a valid discovery request, to produce a Non-Party’s confidential information in its possession, and the Party is subject to an agreement with the Non-Party not to produce the Non-Party’s confidential information, then the Party shall:

(1) promptly notify in writing the Requesting Party and the Non-Party that some or all of the information requested is subject to a confidentiality agreement with a Non-Party;

(2) promptly provide the Non-Party with a copy of the Stipulated Protective Order in this Action, the relevant discovery request(s), and a reasonably specific description of the information requested; and

(3) make the information requested available for inspection by the Non-Party, if requested.

(c) If the Non-Party fails to seek a protective order from this Court within 14 days of receiving the notice and accompanying information, the Receiving Party may produce the Non-Party’s confidential information responsive to the discovery request. If the Non-Party timely seeks a protective order, the Receiving Party shall not produce any information in its possession or control that is subject to the confidentiality agreement with the Non-Party before a determination by the Court. Absent a court order to the contrary, the Non-Party shall bear the burden and expense of seeking protection in this Court of its Protected Material.

#### 10.UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected Material to any person or in any circumstance not authorized under this

1 Stipulated Protective Order, the Receiving Party must immediately (a) notify in  
2 writing the Designating Party of the unauthorized disclosures, (b) use its best efforts  
3 to retrieve all unauthorized copies of the Protected Material, (c) inform the person  
4 or persons to whom unauthorized disclosures were made of all the terms of this  
5 Order, and (d) request such person or persons to execute the “Acknowledgment and  
6 Agreement to Be Bound” that is attached hereto as Exhibit A.

7 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE  
8 PROTECTED MATERIAL

9 When a Producing Party gives notice to Receiving Parties that certain  
10 inadvertently produced material is subject to a claim of privilege or other protection,  
11 the obligations of the Receiving Parties are those set forth in Federal Rule of Civil  
12 Procedure 26(b)(5)(B). This provision is not intended to modify whatever  
13 procedure may be established in an e-discovery order that provides for production  
14 without prior privilege review. Pursuant to Federal Rule of Evidence 502(d) and  
15 (e), insofar as the parties reach an agreement on the effect of disclosure of a  
16 communication or information covered by the attorney-client privilege or work  
17 product protection, the parties may incorporate their agreement in the stipulated  
18 protective order submitted to the Court.

19 12. MISCELLANEOUS

20 12.1 Right to Relief. Nothing in this Order abridges the right of any person  
21 to seek its modification by the Court in the future.

22 12.2 Right to Assert Other Objections. By stipulating to the entry of this  
23 Protective Order, no Party waives any right it otherwise would have to object to  
24 disclosing or producing any information or item on any ground not addressed in this  
25 Stipulated Protective Order. Similarly, no Party waives any right to object on any  
26 ground to use in evidence of any of the material covered by this Protective Order.

27 12.3 Filing Protected Material. A Party that seeks to file under seal any  
28 Protected Material must comply with Civil Local Rule 79-5. Protected Material

1 may only be filed under seal pursuant to a court order authorizing the sealing of the  
2 specific Protected Material at issue. If a Party's request to file Protected Material  
3 under seal is denied by the court, then the Receiving Party may file the information  
4 in the public record unless otherwise instructed by the court.

5 13.FINAL DISPOSITION

6 After the final disposition of this Action, as defined in Section 4  
7 (DURATION), within 60 days of a written request by the Designating Party, each  
8 Receiving Party must return all Protected Material to the Producing Party or destroy  
9 such material. As used in this subdivision, "all Protected Material" includes all  
10 copies, abstracts, compilations, summaries, and any other format reproducing or  
11 capturing any of the Protected Material. Whether the Protected Material is returned  
12 or destroyed, the Receiving Party must submit a written certification to the  
13 Producing Party (and, if not the same person or entity, to the Designating Party) by  
14 the 60 day deadline that (1) identifies (by category, where appropriate) all the  
15 Protected Material that was returned or destroyed; and (2) affirms that the Receiving  
16 Party has not retained any copies, abstracts, compilations, summaries, or any other  
17 format reproducing or capturing any of the Protected Material. Notwithstanding this  
18 provision, Counsel are entitled to retain an archival copy of all pleadings, motion  
19 papers, trial, deposition, and hearing transcripts, legal memoranda, correspondence,  
20 deposition and trial exhibits, expert reports, attorney work product, and consultant  
21 and expert work product, even if such materials contain Protected Material. Any  
22 such archival copies that contain or constitute Protected Material remain subject to  
23 this Protective Order as set forth in Section 4 (DURATION).

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1 14. Any violation of this Order may be punished by any and all appropriate  
2 measures including, without limitation, contempt proceedings and/or  
3 monetary sanctions.  
4

5 DATED: March 18, 2024

**MANNING & KASS  
ELLROD, RAMIREZ, TRESTER LLP**

6  
7  
8 By: /s/ Craig Smith

9 Mildred K. O'Linn

10 Craig Smith

11 Attorneys for Defendants, OFFICER JAY  
12 CHOI, an individual; OFFICER SAMUEL  
13 RIVEROS, and Individual; OFFICER  
14 SUNNY KIM, an INDIVIDUAL; CITY  
15 OF BALDWIN PARK POLICE  
16 DEPARTMENT, and CITY OF  
17 BALDWIN PARK.

18  
19  
20 DATED: March 18, 2024

**KHASHAN LAW FIRM, APC**

21 Bv: /s/ Lewis Khashan

22 Lewis Khashan,

23 Maria Zurmati

24 Attorneys for Plaintiffs, FRANK LOPEZ,  
25 individually and as successor-in-interest to  
26 Estate of HELEN LUCERO (Deceased)  
27 and CECILIA LOPEZ (Deceased); ALMA  
28 MARIE LOPEZ, individually and as  
successor-in-interest of Estate of  
CECEILIA LOPEZ, Deceased,

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**FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.**

DATED: 3/18/24

/S/ CHARLES F. EICK

Honorable Charles F. Eick  
United States Magistrate Judge